

Larry Wasserman 4/11/2006

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE WESTERN DISTRICT OF WASHINGTON  
3                   AT SEATTLE

4  
5                   UNITED STATES OF AMERICA,

6                   et al.,

7                   Plaintiffs,

8                   vs.

9                   STATE OF WASHINGTON, et al.,

10                  Defendants.

)  
)  
)  
)       No. C70-9213

)       Subproceeding No. 01-1  
)       (Culverts)  
)

11  
12                  DEPOSITION UPON ORAL EXAMINATION  
13                  OF  
14                  LARRY WASSERMAN

15  
16                               9:30 a.m.

17                               April 11, 2006

18                               OFFICE OF THE ATTORNEY GENERAL  
19                               900 Fourth Avenue 1995  
20                               Seattle, Washington 98164

21  
22                               JACQUELINE L. BELLOWS  
23                               CCR 2297  
24  
25

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1           again, please.

2       Q     The last paragraph on page 806 on Exhibit 10 says that  
3           you looked at 33 blocking culverts. Do you know whether  
4           any of those have been corrected since 1994?

5       A     Yes. I know some of them have been corrected since  
6           1994.

7       Q     Do you know who owned those culverts that had been  
8           corrected?

9       A     Well, I know that the county had a program in -- around  
10          that time where they were working on culverts. I don't  
11          recall if there were exclusively county-owned culverts  
12          that they corrected. And I know that early in the SERF  
13          Board projects there were culverts corrected. But I  
14          don't know who owned those culverts. I can't recall  
15          specific culverts and the ownership of that culvert.

16      Q     I take it, then, that you would not be able to say  
17          whether any of those 33 culverts, that any of the  
18          culverts in that set of 33 that have been corrected were  
19          state owned?

20      A     At this time, I can't.

21      Q     On pages 806 and 807 on Exhibit 10, there are some  
22          diagrams labeled figures IV and V.

23      A     Yes.

24      Q     Do those figures fairly represent the impacts on coho  
25          smolt production in the Skagit River system from habitat

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1 modification?

2 A They fairly do. However, there has been additional  
3 culvert surveys and additional work in general. So they  
4 generally reflect the proportions of these different  
5 impacts.

6 Q The other factors that are shown in these figures --  
7 hydromodification, forest practices, hydropower -- are  
8 those factors being actively addressed in the Skagit  
9 watershed?

10 A Yes, they are.

11 Q How much has hydromodification changed in the Skagit  
12 River basin since you wrote this 1994 paper?

13 A I'm not sure how to answer the question when you say  
14 "how much" has it changed.

15 Q Have the impacts on coho smolt production from  
16 hydromodification diminished since 1994?

17 A I believe they have.

18 Q Why do you believe that?

19 A We have been quite involved in addressing some of the  
20 factors that are resulting in hydromodification. And  
21 activities that took place prior to 1994 that resulted  
22 in damage in some instances have recovered on their own,  
23 in some instances. And so in total, I think the -- we  
24 have been able to address some of those issues; and  
25 cumulative, that's had positive impacts.

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1 A Not that I'm aware of at this time.

2 Q Are you aware of any culverts owned by local governments  
3 whose repair or replacement you believe could positively  
4 affect anadromous fish populations in the Skagit River  
5 basin?

6 A Again, I'd refer to document Exhibit 13 as -- and I  
7 don't know the current status, but there's a list of  
8 county and some private culverts there. I just don't  
9 know the status of all.

10 Q Of the four types of landowners we just talked about:  
11 State, federal, county, private -- which -- culverts by  
12 which of those entities are the bigger problem, in your  
13 opinion?

14 A I haven't done that analysis.

15 Q Are you aware of any state-owned culverts, any  
16 particular state-owned culverts in the Sammish River  
17 basin whose repair or replacement you believe could  
18 positively affect anadromous fish populations?

19 A There was a culvert at Ennis Creek that was -- oh, I'm  
20 sorry. Was your question specific to state-owned  
21 culverts or culverts in the Sammish?

22 Q State owned.

23 A I don't recall the ownerships of the culverts in the  
24 Sammish.

25 Q You were about to identify one at Ennis Creek. You're

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1 C E R T I F I C A T E

2 STATE OF WASHINGTON )

) SS

3 COUNTY OF KING )

4 I, Jacqueline L. Bellows, a Notary Public in and for  
5 the State of Washington, do hereby certify:

6 That the foregoing deposition was taken before me at  
7 the time and place therein set forth;

8 That the witness was by me first duly sworn to  
9 testify to the truth, the whole truth, and nothing but the  
10 truth; and that the testimony of the witness and all  
11 objections made at the time of the examination were recorded  
12 stenographically by me, and thereafter transcribed under my  
13 direction;

14 That the foregoing transcript is a true record of  
15 the testimony given by the witness and of all objections made  
16 at the time of the examination, to the best of my ability.

17 I further certify that I am in no way related to any  
18 party to this matter nor to any of counsel, nor do I have any  
19 interest in the matter.

20 Witness my hand and seal this 25th day of  
21 April, 2006.

22

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\_\_\_\_\_  
Jacqueline L. Bellows, Notary  
Public in and for the State  
24 of Washington, residing at  
Arlington. Commission  
25 expires October 19, 2006.